

MINUTES OF THE SPECIAL JOINT CITY COUNCIL,
ALAMEDA PUBLIC FINANCING AUTHORITY (APFA), ALAMEDA
REUSE AND REDEVELOPMENT AUTHORITY (ARRA), AND
COMMUNITY IMPROVEMENT COMMISSION (CIC) MEETING
THURSDAY- -JUNE 24, 2010- -7:00 P.M.

Mayor Johnson convened the meeting at 7:07 p.m. Councilmember/Authority Member/ Board Member/Commissioner Gilmore led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers / Authority Members / Board Members / Commissioners deHaan, Gilmore, Matarrese, Tam and Mayor/Chair Johnson – 5.

Absent: None.

CONSENT CALENDAR

Mayor/Chair Johnson announced that the Resolutions Approving Revised Documents [paragraph no. 10-313 CC] were removed from the Consent Calendar for discussion.

Councilmember/Board Member/Commissioner Tam moved approval of the remainder of the Consent Calendar.

Councilmember/Board Member/Commissioner Matarrese seconded the motion, which carried by unanimous voice vote – 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*10-311 CC) Recommendation to Award Legal Ad Contract for fiscal year 2010-11. Accepted.

(*10-312 CC) Resolution No. 14461 “Approving Interim Expenditures Prior to Adoption of the Operating and Capital Budget for FY10-11.” Adopted;

(*ARRA) Resolution No. 47, “Approving Interim Expenditures Prior to Adoption of the Operating and Capital Budget for FY10-11.” Adopted; and

(*10-48 CIC) Resolution No. 10-168, “Approving Interim Expenditures Prior to Adoption of the Operating and Capital Budget for FY10-11.” Adopted.

(10-313 CC) Resolution No. 14462, “Approving Revised Documents Related to the Issuance of Refunding Bonds for the City’s Community Facilities District No. 1 (Harbor Bay) and Marina Village Assessment District 89-1, and Authorizing Actions in Connection Therewith.” Adopted; and

(10-05 APFA) Resolution No. 10-21, “Approving Revised Documents Related to Local

Agency Refunding Revenue Bonds (Harbor Bay CFD and Marina Village AD), and Authorizing Actions in Connection Therewith.” Adopted.

Councilmember/Authority Member Gilmore stated two series of bonds would be issued because the bond rating did not come back favorably; one would be a senior series and the other would be a subordinate series; inquired whether the cost would be more if two series were issued; further inquired whether the subordinate series would be riskier and whether someone would want to buy the bonds.

Mark Holmstedt, Westhoff, Cone & Holmstedt (WCH), responded that he is not happy with the rating; stated the rating is BBB, which is not a bad rating for a land-secured bond; Harbor Bay Community Facilities District (CFD) No.1 has 630 homes; everyone has been paying taxes; the area has been built out for a number of years; the senior bonds would correspond to the CFD; the subordinate bonds would correspond to Marina Village Assessment District 89-1 (AD); revenues come from both districts; a default would not hurt the other district; the CFD is rated A-; the AD bonds have four years left; a debt service reserve fund has been established to ensure that if the top three taxpayers all default for two years, the bonds would still be paid; a foreclosure proceeding could take place to ensure payment; that he thinks people should feel good about both series; the AD district has never had a full payment delinquency for longer than a year; one taxpayer had a small delinquency up until a week ago; the matter has been cured; that he would expect a little bit better rate on the A- bonds; the cost would not be more for issuing two series.

Councilmember/Authority Member Gilmore stated the City might get a better rating by splitting the bond.

Mr. Holmstedt stated last week, one bonding service rated the transaction BBB for one bond; Standard & Poor's (S&P) does not agree; the transaction was restructured; the CFD bonds are different than an assessment district in that more taxes pay the bonds, which is considered to be a higher credit quality; the Marina Village District has a very heavy ownership concentration; three of the highest taxpayers control 78% of all taxes; having the three taxpayers default would create a problem and is the reason for the lower rating.

The Interim City Manager/Executive Director stated the CFD fairs better and the AD fairs no worse by splitting the bond.

Mr. Holmstedt stated bidders would be allowed to bid on one or both bonds; a notice was sent a week ago regarding the forthcoming transaction; a number of major Wall Street firms are interested in bidding on the bonds; major insurance companies are looking towards reinvesting the bonds; that he expects to receive strong bids next week.

Councilmember/Authority Member Tam inquired whether Marina Village brought down

the bond rating because of a past delinquency and resulted in a BBB between S&P and Fitch, Inc.

Mr. Holmstedt responded S&P was a little more concerned about the initial Marina Village delinquency than Fitch, Inc.

Councilmember/Authority Member Tam inquired whether the concern was because of the three highest taxpayer's delinquencies.

Mr. Holmstedt responded only one of the top three taxpayers was delinquent; stated S&P was concerned about the delinquency.

Councilmember/Authority Member Tam inquired whether the delinquency is the reason for dropping the rating from A- to BBB.

Mr. Holmstedt responded in the negative; stated the A- rating is a result of restructuring; last week's single bond issue was rated BBB; having two ratings is the result of separating the homeowner portion from the business portion.

Councilmember/Authority Member Tam inquired whether an A- rating is the result of aggregating both bonds.

Mr. Holmstedt responded the higher rating is the result of separating the bonds and a pledge of all revenues first for the senior bond.

Councilmember/Authority Member Tam inquired whether or not the CFD would be carrying the AD because of AD's poorer rating.

Mr. Holmstedt responded in the affirmative; stated neither district would be supporting the other.

Councilmember/Authority Member Tam stated Council wanted to focus on refinancing debt that would immediately affect the General Fund; however, the market was not that great at the time; tonight's recommendation is not in said category; inquired what would be WCH's fee.

Mr. Holmstedt responded total financial advisory fees are estimated to be approximately \$196,000.

Councilmember/Authority Member Tam inquired whether WCH would get 70%.

Mr. Holmstedt responded approximately; stated fees would go down if the transaction goes down; fees would not exceed \$196,000.

Councilmember/Authority Member Tam inquired whether fees would come out of bond refunding, not the General Fund, to which Mr. Holmstedt responded in the affirmative.

The Interim City Manager/Executive Director stated dirt bonds are pledged by land collateral, not the General Fund; refunding would not help the General Fund but would help taxpayers.

Mr. Holmstedt stated Harbor Bay homeowners should expect a savings between \$417 and \$761; Marina Village business owners would see taxes reduced by approximately 10%.

Councilmember/Authority Member Gilmore inquired what is the difference between refinancing and refunding.

Mr. Holmstedt responded nothing; stated a lot of time was spent on the issue last week; that he apologizes for having to bring the transaction back; the structure is superior; ratings have been confirmed; the transaction is as good as possible.

Councilmember/Authority Member Matarrese moved adoption of the resolutions.

Vice Mayor/Authority Member deHaan seconded the motion, which carried by the following voice vote: Ayes: Councilmembers/Authority Members deHaan, Gilmore, Matarrese, and Mayor/Chair Johnson – 4. Abstentions: Councilmember/Authority Member Tam – 1.

CITY MANAGER/EXECUTIVE DIRECTOR COMMUNICATION

(10-49 CIC) Redevelopment Impacts on Alameda Unified School District

David Doezenia, Keyser Marston Associates, gave a Power Point presentation.

Commissioner deHaan stated CIC payments to Alameda Unified School District (AUSD) total \$1.8 million for capital and \$3 million over ten years; inquired whether there are limitations on how property tax revenue can be spent.

Mr. Doezenia responded capital funds need to be spent on buildings and improvements; housing funds need to be spent on housing consistent with various redevelopment law requirements; 40% needs to be spent for very low income housing and the balance needs to be spent on moderate income housing.

Commissioner deHaan inquired whether the split is through an agreement or State law.

Mr. Doezenia responded through an agreement; stated most of the money included in the \$5 million is paid pursuant to the Business and Waterfront Improvement Project

(BWIP) Agreement; the Agreement was negotiated in 1991 when the project area was established; a small portion of the capital comes from another project area.

Commissioner deHaan inquired whether Peralta Community College has a similar breakdown, to which Mr. Doezeema responded the split is unique to AUSD.

Commissioner Matarrese inquired how AUSD became the recipient of housing money and if so, what was the rationale, to which Mr. Doezeema responded that he does not know the background.

The Economic Development Director stated staff has tried to piece together the story; nobody is around today to explain the issue; other redevelopment agencies were doing the same thing because recruiting teachers was difficult due to California's high cost of living; San Jose also did some teacher housing to deal with the issue in the late 1990's; that she is not sure how and who decided that AUSD wanted to have a housing fund.

Commissioner Matarrese inquired how easy it would be to change the Agreement.

The Economic Development Director responded the Agreement cannot be altered; stated the contractual arrangements were made before State law changed to stop negotiated agreements between redevelopment agencies and school districts; AB 1290 requires all contractual negotiations to stop and everyone has formulated pass throughs.

Commissioner deHaan inquired whether AUSD puts any money away for housing, to which the Economic Development Director responded not to her knowledge.

Commissioner deHaan stated the situation is unique; 65% of the funds go to housing.

The Economic Development Director stated the Redevelopment Agency is obligated to ensure that the money goes into housing.

Commissioner Tam stated Former Assistant City Manager David Brandt explained to her that the Mastick Senior Center location belonged to the School District; an agreement was made which included providing housing for the School District.

The Economic Development Director stated the Agreement is separate; that she is not sure how the issue came about; the City agreed to take Mastick Senior Center in exchange for giving other things to the School District; the City pledged to provide cash and additional support for the construction of Ruby Bridges school and traded a lease at the Encinal Terminal area; the School District collects revenue off the lease.

Chair Johnson stated the School District has leased property at the former Naval Base.

Commissioner Tam inquired how the Island High School commitment turned into a need for housing.

The Economic Development Director responded the City does not have a commitment for Island High School; stated the City is interested in acquiring Island High School to build housing.

Commissioner Tam stated Mr. Brandt explained to her that the City had to provide a pass through for the School District and there was potential for working with the School District to provide an advance when the School District has financial problems to see if the City could provide some type of in-kind service for an Island High School trade.

The Economic Development Director stated the City has explored ways to make use of the housing money for the School District; the School District has the property [Island High School] that the City is interested in as a location for affordable housing; over the last couple of years, the City has discussed leasing the property long term, buying the property out right, or leasing the property and making some type of large payment upfront so that the School District could use the money for something other than housing; now, there is a unique time window in the law for the next two years and two months in which the School District can use the money from land sales for operating purposes rather than being confined to capital.

Commissioner deHaan inquired whether any money could have been designated for operation when the pass through was put together.

The Economic Development Director responded the State requires that a portion of the pass through goes to capital and the balance goes to operating; stated the issue with the 43.3% operating portion is that the School District needs to report the amount received to the State, and the State reduces funding for operation; school districts are funded based upon an average daily attendance formula.

Chair Johnson stated the pass through is a liability to the State.

Commissioner Gilmore requested an explanation of the Educational Revenue Augmentation Fund (ERAF) shift.

Mr. Doezeema stated the ERAF take from the CIC and other redevelopment agencies across the State goes into a special fund in each county within the State; the State uses the money to pay what it is required to pay to schools; under Proposition 98, the State has an obligation to get all school districts to a certain funding level.

Commissioner Gilmore inquired whether the \$7.4 million [taken from Alameda] has not gone to AUSD, but to school districts statewide in the past ten years.

Mr. Doezenia responded in the affirmative; stated the money is really going to the State; the \$7.4 million represents the different State takes over the last ten years through Fiscal Year 2009-2010, not Fiscal Year 2010-2011; \$4.6 was taken in Fiscal Year 2009-2010; the \$7.4 million includes takes for Fiscal Years 2002-2003, 2003-2004, 2004-2005, 2005-2006; \$4.6 million represents almost thirty percent of the City's redevelopment money.

Chair Johnson stated the money goes to schools and reduces the State's liability to schools; the schools are no better off.

Commissioner deHaan inquired whether schools are any worse off.

Mr. Doezenia responded in the negative; stated the matter is a budget solution for the State only; continued the presentation.

Commissioner Tam inquired whether pass through funds do not occur until tax increment is produced, to which Mr. Doezenia responded in the affirmative; continued the presentation.

Commissioner deHaan inquired when pass throughs started, to which Mr. Doezenia responded fiscal year 2005-2006.

Commissioner deHaan inquired whether the Agreement could have been modified.

Mr. Doezenia responded the payment requirement is dictated by a statutory formula in California redevelopment law.

The Economic Development Director stated the Agreement is not with the West End Community Improvement Project (WECIP), but with BWIP.

Mr. Doezenia continued the presentation.

Chair Johnson inquired whether the 2009-2010 decline is due to reassessments.

Mr. Doezenia responded the decline represents downward adjustments from assessed home values due to the decline in the market; stated the major factor is that one-time revenues were received in Fiscal Year 2008-2009 that did not happen again in Fiscal Year 2009-2010; continued the presentation.

Commissioner Matarrese inquired whether the fiscal year 2009-2010 Alameda Point Improvement Project (APIP) negative tax increment is accounted for in balancing the budget for the redevelopment area and is not coming from the General Fund.

Mr. Doezenia responded in the affirmative; stated the negative tax increment was paid

out of the APIP fund balance, including borrowing from the housing set aside which is a permitted method; continued the presentation.

The Economic Development Director stated the CIC has partnered with AUSD to fund a number of projects; the CIC developed the Ruby Bridges Park and Community Center; AUSD did not have to buy and maintain the required open space; the first right of use is given to the School District through a Joint Use Agreement; seven clean acres were delivered to AUSD in addition to all the infrastructure for constructing Ruby Bridges School; a cash contribution was made for construction of the school, which was negotiated in the Contract.

Commissioner deHaan inquired whether additional property taxes would be \$3.1 million if there were not a redevelopment agreement.

Mr. Doezeema responded the \$16 million generated would be split between the School District, County and others if the CIC did not collect tax increment.

Chair Johnson inquired whether the State always lowers the allocation if AUSD receives more from local taxes.

Mr. Doezeema responded in the affirmative; stated AUSD gets \$49 million regardless.

Commissioner Tam inquired whether AUSD always gets \$49 million from the State.

Mr. Doezeema responded the number changes from year to year; stated the amount is based on enrollment and complicated State formulas.

Commissioner Tam inquired whether the \$3.1 million amount would change if the State gives AUSD less.

Mr. Doezeema responded in the negative; stated if the revenue limit was \$45 million instead of \$49 million next year, the State would give AUSD \$4 million less; the key variable is what the State provides.

Chair Johnson stated local tax goes in first and the State makes up the difference of the amount the State determines according to the formula; the school districts get less from the State if more is received from local tax.

Commissioner Matarrese inquired whether the difference from having a redevelopment area is that AUSD has an additional \$776,000, to which Mr. Doezeema responded in the affirmative.

Commissioner Matarrese inquired whether a large amount goes for housing, to which Mr. Doezeema responded \$480,000 goes to housing.

Speakers: David Howard, Alameda, (provided handout); and Gretchen Lipow, Alameda.

Following Mr. Howard's comments, Mr. Doezeema stated a parcel tax funds the potential of getting above the \$49 million revenue limit; local property tax can only contribute to offsetting what State money would be available to get to the \$49 million revenue limit; a parcel tax adds something new; the \$3.1 million is not new to AUSD; the speaker was drawing a connection between redevelopment, the CIC's tax increment collection, and the State's budget situation; the State's budget situation is very complex; the estimated shortfall is \$20 billion; that he does not think the \$20 billion shortfall can be blamed on the \$3.1 million.

Commissioner Gilmore stated both columns [on Chart 5] have a \$49 million revenue limit; inquired whether AUSD can spend the money however it wants.

Mr. Doezeema responded in the affirmative; stated the money is operating money and is not restricted to capital.

Commissioner Gilmore inquired whether the \$3.1 million has no restrictions but does not add to the operating budget in either column.

Mr. Doezeema responded in the affirmative; stated the money is not new but is flexible.

Chair Johnson inquired whether the total amounts in both columns are operating money, to which Mr. Doezeema responded in the affirmative.

Chair Johnson stated the speaker thought that part of the money is restricted.

Mr. Doezeema stated the only part that is restricted is the pink part at the top [\$776,000]; both columns are unrestricted.

The Economic Development Director stated the \$293,000 for capital can be freed up for teachers.

Chair Johnson stated the speaker thought that one column is better than the other; the Economic Development Director is saying that the columns are the same.

The Economic Development Director stated both columns are the same except for the pink part.

Chair Johnson inquired whether both columns are the same for AUSD, to which Mr. Doezeema responded in the affirmative.

Commissioner Tam stated last week, the City sent the State a little over \$4 million in

redevelopment funds; inquired whether AUSD might not see any of the money because the money could go to other school districts; further inquired whether the City's redevelopment funds going to the State and the School District's financial issues have no correlation.

Mr. Doezenia responded that the \$4.6 million paid into the ERAF can be spent anywhere in California.

Commissioner deHaan inquired whether redevelopment areas pay the same tax, to which Mr. Doezenia responded in the affirmative.

Commissioner deHaan stated all cities skim off a portion; the revenue is not going into the State's pot.

Mr. Doezenia stated that he qualifies Commissioner deHaan's comment; the CIC is collecting tax increment generated by the Bayport project; some people would say that the money would not exist if not for the CIC; the CIC funds itself.

Commissioner Matarrese stated CIC generated projects keep money local; the State is compelled by the 1970's Serrano vs. Priest decision; the decision was designed so that rich cities would not place poor schools at a disadvantage; the State is compelled to put every California student on a level playing field; the City's redevelopment puts \$293,000 into the School District's capital; rich cities that can afford a higher parcel tax have better schools than poor cities.

Commissioner Gilmore stated the issue is why the Robles-Wong case is so important; AUSD and other school districts sued California; the State is not living up to the Serrano decision; people say that AUSD has other methods to raise money besides parcel taxes which is not true because the State takes the money; unfortunately, the matter will take years [to correct] because of the how things wind through the legal system.

(10-314 CC) Update on Measure P

The Interim City Manager gave a brief presentation.

Vice Mayor deHaan stated the City would have lost approximately \$1.8 million without Measure P; the City stayed status quo.

The Interim City Manager stated approximately \$2 million more was picked up in Fiscal Year 2008-2009 than would have been without Measure P.

(10-315 CC) Citywide Asset Management Policy

The Interim City Manager gave a Power Point presentation; stated the Asset

Management Policy would be brought back at the July 20, 2010 or July 27, 2010 Council meeting.

Councilmember Matarrese stated one maximization of return might be a contribution to infrastructure; his preference would be to tilt to the hard asset if he had to choose between the General Fund versus something going into the ground, ensuring that the shoreline is shored up and streets and sewers are maintained at a high level; the hard asset has a longer life.

The Interim City Manager continued the presentation.

Councilmember Gilmore inquired how the Veteran's Building and Meyer's House would be classified.

The Interim City Manager responded today, the Veteran's Building would be considered community use; stated the Veteran's Building could be considered operational if the City rehabilitated the building into office space; the Meyer's House is considered community use.

Councilmember Tam inquired whether a fair appraisal would be performed for long-term lease or sale.

The Interim City Manager responded an appraisal would be done for a sale; stated other criteria would be considered for other uses to determine how the City could get management of the asset in terms of return.

Councilmember Matarrese stated the top priority of the asset management strategy should be to maintain the asset; the Tidelands has very expensive maintenance; bringing the Veteran's Building back to the way it was would be very expensive.

Mayor Johnson stated a balance is required because maintenance funding is needed; the City does not have a strategic plan for maintaining assets.

Councilmember Matarrese stated that he understands the balance and need for revenue; in hard times, revenue is always used for operations and maintenance is deferred.

Mayor Johnson stated maintenance funding needs to be established; the Veteran's Building is not the only asset that has not been maintained; funds need to be set aside for accumulated, deferred maintenance.

Vice Mayor deHaan stated properties need to get back to an original baseline; then, maintenance can be done; many times, excess property is something to make money on; the asset could be held onto for something that could be beneficial to the

community.

The Interim City Manager stated last Saturday [at the June 19, 2010 meeting], discussions included considering development of a parking lot for housing; the goal is to come up with a policy that has a criteria of interest against which to make a decision.

Councilmember Matarrese stated a policy for one-time revenue sources not being used for operation was discussed on Saturday; the policy would include putting one-time revenue sources into maintaining hard assets; the policy would need to be linked to other budgeting policies; unused assets could be sold to leverage other assets to create quality of life, jobs, or a tax stream.

Councilmember Gilmore stated that she likes the idea of prioritizing; priorities are needed when discussing maximizing value benefit; the balancing act is like a road map.

Mayor Johnson inquired whether the Interim City Manager would have a list of specific assets when the matter comes back.

The Interim City Manager responded assets would not be classified; stated staff would come up with a streamline way of applying the policy; a report might be ready by September.

Mayor Johnson stated an extra column is needed for funding when the matter comes back; the City needs to be honest about whether there are too many assets to maintain.

In response to Vice Mayor deHaan's inquiry, the Interim City Manager stated most cities that incorporated before 1962 are in the same situation as Alameda; assets have not been inventoried; cities that incorporated in the 1960's are now enjoying ten years of no payments out of the General Fund; City departments pay a proportionate amount of money on debt service; that she keeps charging departments once the debt is paid off and has been setting aside money for deferred maintenance; Alameda practically owns everything it has; the City's first challenge is to go back and recover other items in the internal service fund; the next challenge is to continue to have departments absorb proportionate costs of putting a dollar amount into the internal service fund which would be used for deferred maintenance reserve; the goal is to charge departments x amount of dollars in fixed charges in the facilities maintenance fund; the City was only able to put in \$100,000 last year.

Vice Mayor deHaan inquired whether the Interim City Manager is building a new model or whether a good model is out there.

The Interim City Manager responded older cities are not disciplined about putting money away for deferred maintenance.

Vice Mayor deHaan stated the City is trying to establish some new ground.

The Interim City Manager stated the Asset Management Policy is built on a privatization model.

Mayor Johnson stated the nation's bridges cannot be maintained.

The Interim City Manager stated Government Accounting Standard Board (GASB) 45 requires cities to count every asset; cities were not aware of the amount of public assets or values; continued the presentation.

Mayor Johnson inquired whether a provision could be added regarding rent increases; stated two twenty-five year leases do not provide for any rent increase.

The Interim City Manager responded the justification would depend upon the use, utilization schedule, and measurement criteria; stated cities that foster a lot of incubator businesses often use the "flat for five" formula, which provides for no increases for five years.

Mayor Johnson stated findings should be made for fifty-year leases.

The Interim City Manager continued the presentation.

Mayor Johnson inquired whether the proposed criteria checklist would include real property or other types as well.

The Interim City Manager responded the checklist would include anything defined as real property such as land and buildings; stated cars would not be included; a ten percent deferred maintenance reserve would be approximately \$22 million.

Councilmember Matarrese thanked staff for the report; stated the tie into disciplined funding is critical.

Vice Mayor deHaan stated other cities must have plowed through the issue before.

The Interim City Manager stated the proposed charge back model would be very different than what cities use.

Councilmember Tam stated the League of California Cities' Public Works Department has an asset management template policy; however, the policy deals with the public works angle for deferred maintenance and has been used to justify the gas tax; the Alameda County Planning Commission has an asset strategy that a community development group developed for all county assets; East Bay Municipal Utility District (EBMUD) has an asset management department that deals with declaration of surplus

property; a special district buys land and it changes hands because the property is not needed, is land locked, or there is not public interest; then, the land is disposed; there is a threshold measure to determine how much money is poured in for maintenance and how long the asset should last.

Mayor Johnson stated newer cities do not have as much deferred maintenance as older cities; cities would be in a better position if money is set aside; Alameda is in a better situation than other cities of a similar age.

Councilmember Matarrese stated a City-owned building is not free, but is a real cost for running the City; structural problems need to be fixed.

The Interim City Manager stated the matter would come back to Council on July 20th or July 27th; staff is starting at the core of City-owned assets; a file would be created; staff would look for every deed; Council would have the opportunity to apply the proposed policy independently to expired leases and other assets that should be reviewed.

AGENDA ITEMS

None.

COUNCIL REFERRAL

(10-316 CC) Discussion of Reconsidering the Council Action to Refer the Campaign Finance Reform Ordinance to the Sunshine Task Force.

Mayor Johnson gave a brief presentation.

Speakers: Gretchen Lipow, Chair Sunshine Task Force; Jon Spangler, Alameda; Jean Sweeney, Alameda; Karen Butter, League of Women Voters; Ashley Jones, Alameda; Rosemary McNally, Alameda; Aidan Barry, Alameda; and Jim Sweeney, Alameda.

Following Ms. Lipow's comments, Councilmember Gilmore inquired whether Ms. Lipow is speaking solely for herself.

Ms. Lipow responded in the affirmative; stated an Task Force meeting was held the next night [after the June 15th Council meeting]; the issue [campaign financing] was not on the agenda; the Sunshine Task Force discussed placing the issue on its July 17th agenda.

Councilmember Gilmore stated Ms. Lipow's email makes reference to Ms. Lipow considering stepping down from the Task Force; inquired whether the statement is accurate.

Ms. Lipow responded the Sunshine Task Force signed on to work on an ordinance and not campaign financing or lobbying; stated that she does not think she is qualified to address campaign financing.

Vice Mayor deHaan stated Council wanted certain things to go forward immediately; the confusion is that Council has remanded campaign financing back to the Sunshine Task Force; the confusion lies with Council.

Councilmember Gilmore stated that she is not confused; Council has discussed all the various issues; Councilmember Matarrese stated that he went to a Democratic Club meeting and people were not aware of Alameda's issue; that she and Councilmember Tam mentioned various issues within the ordinance specifically; she mentioned that the matter is a conflict of interest for the majority of Council and the matter should not be voted on and should not become effective until January 1, 2011; none of the issues have changed; the only new item of evidence is that Ms. Lipow sent an email speaking for herself and not speaking for the Sunshine Task Force; none of the underlining issues pointed out at the last meeting have changed; Ms. Lipow has the prerogative to step down; the Sunshine Task Force facilitator is a former Hayward City Attorney; the Sunshine Task Force has taken up the cause because the matter has been put on the July meeting agenda.

Vice Mayor deHaan stated that he disagrees with Councilmember Gilmore; Council discussed holding the Sunshine Task Force to two or three meetings; now, Council needs to give guidelines on what to do.

Ms. Lipow stated the Sunshine Task Force has never discussed the issue; that she does not know how other Task Force members feel about the issue; the Task Force is unclear about Council direction.

Mayor Johnson inquired whether Councilmembers considering a campaign finance reform ordinance would be a conflict of interest.

The Assistant City Attorney responded that she does not think there would be a conflict of interest under Fair Political Practices Commission rules.

Councilmember Gilmore stated five Councilmembers would be asked to make a decision that would potentially change rules in the middle of an election cycle; three Councilmembers have already declared to run in this election; the proposed change would affect everyone; people who have already declared to run and have raised money would have an advantage over people who enter the race after the ordinance passes but before the filing deadline; people would be running in the race under two separate set of rules; having people give back money raised before the ordinance is a different story.

Mayor Johnson stated the term “conflict of interest” has been thrown around loosely; the public needs to understand what is and is not a technical conflict of interest.

Councilmember Gilmore stated the conflict of interest may not be technical, but the actuality is that if the ordinance passes midstream, incumbents would get a practical advantage over non-incumbents in the upcoming election.

Councilmember Tam inquired whether Ms. Lipow shared her email with Task Force colleagues, to which Mr. Lipow responded in the negative.

Councilmember Tam inquired whether Ms. Lipow was present at the June 16th Task Force Meeting, to which Ms. Lipow responded in the affirmative.

Councilmember Tam stated the Sunshine Task Force Vice Chair stated “as the Council reaffirmed, the Task Force operates under the Brown Act and because we do, the campaign finance reform issue was not and could not be legally agendaized at our meeting of Wednesday, June 16, 2010; however, the item was unanimously, and without concern, added to our July public workshop for full participation and discussion”; inquired whether Ms. Lipow expressed concern, to which Ms. Lipow responded in the affirmative.

Councilmember Tam inquired whether Ms. Lipow indicated to the Task Force that she did not feel that she was qualified to take on the project.

Ms. Lipow stated generally, she tends to do things when she sees things in writing; that her concern was with what Council was really saying and what Council wanted the Task Force to do.

Councilmember Tam stated that she understands the facilitator would be willing to step in and assume the responsibility of serving on the Task Force.

Ms. Lipow stated that she does not know how other Task Force members feel about the issue.

Mayor Johnson stated the intent of the Council Referral is not to debate the merits of campaign finance reform but to discuss the process of handling the matter; Council voted to send the matter to the Sunshine Task Force which might not be the right place; Council gave specific direction to the Sunshine Task Force; the Sunshine Task Force has had certain expectations of the commitment; that she thinks the matter should be brought back to Council for process discussion.

Vice Mayor deHaan stated discussions need to address whether the issue should be kept at Council level.

Councilmember Matarrese stated that he voted for the first reading in order to get things started; a void has occurred between the first and second reading; Council has been talking in a vacuum; that he does not see that anything has changed regarding setting maximum contribution limits; that he would like to hear what the Task Force has to say; the decision would be a Council vote; a broader hearing is needed.

Vice Mayor deHaan stated Council can have a broader hearing; Council would be shrugging its responsibility [by sending the matter to the Task Force]; Council can air the matter to the public; Council does not want a change in this election cycle; people want to keep things status quo during this election; that he is not asking people to refund money already raised; the contribution limit would be in effect once the ordinance is passed.

Councilmember Gilmore stated people who have already started raising money would be able to keep the money; people jumping into the race now would have a different set of rules if the ordinance becomes effective now; historically, finance limits tend to favor incumbents; non-incumbents would be put at a disadvantage; Council is not abdicating responsibility; Council needs to pass an ordinance; a lot of Councilmembers have volunteer treasurers; a treasurer only has three hours to file on the Friday before the election; the problem would be significant for a treasurer who has another job; that she is in favor of campaign reform and spending, but she thinks getting things right as opposed to fast is important; that she does not want the City to get sued and have to spend money defending a lawsuit.

Mayor Johnson stated the substance of campaign finance reform is not on the agenda; the issue is whether to bring the matter back for Council discussion so that another process could be considered.

Councilmember Gilmore inquired whether the only thing that prompted the Council Referral is the fact that the Sunshine Task Force Chair, speaking for herself, declared that she did not feel that she would be able to take on the task.

Mayor Johnson responded in the affirmative; stated in addition, the original direction given to the Sunshine Task Force was a much narrower task; stated the Sunshine Task Force signed on for one job and now Council is giving it more jobs to do; the matter needs to be reconsidered.

Following Mr. Sweeny's comments, Councilmember Tam inquired whether Mayor Johnson's concern is that the June 15th Council action did not provide enough direction to the Sunshine Task Force.

Mayor Johnson responded in the negative; stated the original Sunshine Task Force task has been greatly expanded by direction given at the last Council meeting; the matter should be reconsidered.

Councilmember Gilmore inquired why; stated the majority of the Council gave the Sunshine Task Force a task.

Mayor Johnson stated the Sunshine Task Force Chair has expressed that she does not feel it is appropriate to send the matter to the Task Force.

Councilmember Tam stated Council would have the ultimate authority to pass the ordinance; that she polled the Task Force to get an understanding on whether the assignment was acceptable to the Task Force; the majority felt that the Task Force would take direction from Council; the Task Force would help facilitate a forum if Council wanted the Task Force to review the matter; that she does not see that the Sunshine Task Force is unwilling to accept the assignment.

Mayor Johnson stated Councilmember Tam polling the Sunshine Task Force might be a violation of the Brown Act since the matter is on the next Sunshine Task Force agenda; polling and developing a consensus of the majority of the Task Force is a violation of the Brown Act.

Councilmember Tam requested an explanation of the violation.

Mayor Johnson stated developing a consensus of Task Force members on an issue that would be on the next agenda.

Councilmember Tam stated that she asked an opinion of three members, two of which are on the Task Force and one is the facilitator; that she would like a City Attorney ruling if Mayor Johnson is accusing her of a Brown Act violation.

Mayor Johnson stated that she thinks Council is going beyond the intent of the referral; the intent of the referral is whether the matter should be brought back to Council to explore another avenue to review campaign reform.

Councilmember Matarrese stated that he does not think the matter should be brought back until Council hears from the Sunshine Task Force; that he does not want to go on hearsay; inquired whether the issue is out in the public.

The City Clerk responded after the last meeting, the Sunshine Task Force decided to call a Special Meeting on June 14th; the Chair agreed to call the meeting; now, the Task Force will be having another meeting on July 14th, prior to the July 17th meeting.

Councilmember Matarrese inquired whether the matter would be discussion on July 14th.

The Deputy City Manager – Administrative Services responded the July 14th meeting is

for organizational purposes.

The City Clerk stated the item could be added to the agenda.

Councilmember Matarrese stated that he wants to hear back from the Sunshine Task Force with a recommendation.

The Interim City Manager inquired who places items on the agenda.

The Deputy City Manager – Administrative Services responded staff placed matters on the agenda at first; stated now, staff consults with the Chair to place items on the agenda.

Vice Mayor deHaan stated Council needs to explain what it wants and be specific about the change in direction; Council can choose to discuss the issue; the timeline should be put aside; feedback is needed from the public whether at a Council meeting or Sunshine Task Force meeting; the matter should be brought back for discussion and finalization and then figure out when the ordinance would go into effect; that he thinks accepting more than \$250 is unfair.

Mayor Johnson stated there is no reason not to continue to work in a diligent manner to get the job done; Council can choose to implement the ordinance when it chooses.

Councilmember Gilmore stated that she understands Council told the Sunshine Task Force that the matter could be brought back at any time, but the ordinance would not be effective until at least January 1st.

Mayor Johnson stated that she does not recall said direction; that she thinks the direction was to bring the matter back no sooner than January 1st; the facts will be checked.

Vice Mayor deHaan stated that he recalls that Council would not consider the matter until January.

The City Clerk stated the motion was to extend the period for public comment, including review by the Sunshine Task Force and League of Women Voters and that the ordinance not be effective until 2011.

Vice Mayor deHaan stated the issue is whether Council wants to task the Task Force to go forward; Council's obligation is to spell out what the Sunshine Task Force should do.

Councilmember Matarrese stated Council's obligation is whether to reconsider the vote taken last time; that his answer is no; he wants to hear back from the Sunshine Task Force; direction can be given if feedback warrants reconsidering the vote.

Mayor Johnson stated consensus is to leave direction as is; that she is not sure how to get feedback from the Sunshine Task Force.

Ms. Lipow inquired whether Council wants the Task Force to use the ten-page on-line document, to which Councilmember Gilmore responded the document would be a start.

ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the meeting at 10:26 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, APFA, CIC

The agenda for this meeting was posted in accordance with the Brown Act.